

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LEILANI JIMENEZ, individually, and as
successor-in-interest for Decedent DENNIS
JIMENEZ; J.J., a minor, by and through his
guardian ad litem Leilani Jimenez; D.J., a minor,
by and through her guardian ad litem Leilani
Jimenez, and DENNIS JIMENEZ, Jr. an
individual; DENISE GAINES, an individual; and
ANITA JIMENEZ, an individual,

Plaintiff,

v.

COUNTY OF ALAMEDA, et al.,

Defendant.

No. C 13-04620 CRB

**ORDER DENYING WITHOUT
PREJUDICE DEFENDANTS' MOTION
FOR PARTIAL SUMMARY JUDGMENT**

Defendants have moved for partial summary judgment. See Motion (dkt. 35).
Plaintiffs' response notes that discovery in this matter has not been closed and that Plaintiff
wishes to depose at least one additional witness. See Response (dkt. 38) at 9. Rule 56(d)
provides that “[i]f a nonmovant shows by affidavit or declaration that, for specified reasons,
it cannot present facts essential to justify its opposition, the court may: (1) defer considering
the motion or deny it; (2) allow time to obtain affidavits or declarations or to take discovery;
or (3) issue any appropriate order.” Fed. R. Civ. P. 56(d). Here, the Nisenbaum Declaration
(dkt. 50) and the record before the Court meet the requirements of Rule 56(d). Therefore,

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1 Defendants' motion is DENIED without prejudice and the October 9, 2015 hearing on the
2 motion is VACATED.

3 **IT IS SO ORDERED.**

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5 Dated: October 5, 2015



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE